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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

10 LARRY SWEATT ,

11 Plaintiff,

12 v.

13 SUNKIDD VENTURE, INC., dba
14 AMERICAN BONDED COLLECTION
15 SPECIALIST; and DUVALL CRAIG R. dba
CRESTWOOD CONSTRUCTION,

16 Defendants.

Case No. C05-5406FDB

ORDER GRANTING MOTION OF
DEFENDANT CRAIG R. DUVALL
d/b/a CRESTWOOD
CONSTRUCTION TO DISMISS

17 Defendant Craig R. Duvall d/b/a Crestwood Construction moves for dismissal on the basis
18 that the Fair Debt Collection Practices Act (FDCPA) does not regulate the activities of creditors
19 such as Crestwood. The FDCPA draws a distinction between a “creditor,” defined as “any person
20 who offers or extends credit creating a debt or to whom a debt is owed.” and a “debt collector,”
21 defined as a third-party whose principal business is to collect, or attempt to collect, a debt owed to
22 another. 15 U.S.C. § 1692a(4) and § 1692e. The purpose of the FDCPA was to eliminate the
23 abusive debt collection practices by debt collectors. *Id.*

24 Crestwood referred an outstanding balance owed at the end of Larry Sweatt’s tenancy at
25 Crestwood to a debt collector, co-defendant American Bonded Collection Specialist (ABC).

26 ORDER - 1

1 Plaintiff opposes dismissal arguing that Defendant Sunkidd (dba ABC) sent him a dunning
2 letter March 23, 2004, nearly two years after he had paid the debt to Crestwood. Plaintiff argues
3 that Crestwood is vicariously liable for Sunkidd's actions because Crestwood controlled Sunkidd to
4 the extent that Sunkidd was directed by Crestwood to collect from Plaintiff. Moreover, Plaintiff
5 notes that he is moving to amend his complaint to file a tort damages claims against Defendants.

6 The Court cannot conclude on the record here that there was an agency relationship between
7 Duvall/Crestwood and Sunkidd/ABC rather than an independent contractor relationship.
8 Accordingly, the FDCPA claims against Defendants Craig R. Duvall d/b/a Crestwood Construciton
9 must be dismissed.

10 ACCORDINGLY, IT IS ORDERED: Defendant Craig R. Duvall d/b/a Crestwood
11 Construction's Motion To Dismiss [Dkt. # 38] is GRANTED, and Plaintiffs claims under the Fair
12 Debt Collection Practices Act against these defendants are DISMISSED.

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14 DATED this 23rd day of August, 2006.

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17 FRANKLIN D. BURGESS
18 UNITED STATES DISTRICT JUDGE
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ORDER - 2